



## Department of Energy

Washington, DC 20585

### DECLARATION OF TRUST

DATE \_\_\_\_\_

The United States Department of Energy (hereinafter referred to as "Depositor")  
and \_\_\_\_\_ (hereinafter referred to as "Trustee")  
hereby state and declare as follows:

#### Article I Creation of Trust

- 1.1 The Trustee acts in a fiduciary capacity, and will manage and administer in accordance with the terms of this Declaration of Trust, a Trust to be known as the Bank Deposit Financial Assistance Program (hereinafter referred to as the "Trust").

The Trust shall consist of:

- (a) Funds received from the Depositor.
- (b) Funds received from minority owned financial institutions which are insured by the Federal Deposit Insurance Corporation or its successor. Hereinafter such financial institution will be referred to as Minority Financial Institution.
- (c) Interest earned on funds in the Trust.

#### Article II Participation and Deposit of Funds

- 2.1 The Depositor will transfer funds to the Trustee for deposit with Minority Financial Institutions (MFIs) in accordance with sections 2.2 through 2.4.



- 2.2 From a list of MFIs maintained by the U.S. Department of Treasury, the Depositor will provide a written notification to the Trustee, the name of the MFIs in which accounts are to be opened. This notification will be provided to the Trustee at least seven (7) days prior to the deposit of funds by the Depositor with the Trustee.
- 2.3 Within three (3) business days of a second notification (identifying and locating the MFIs in which accounts are to be opened) to the Trustee by the Depositor, the Depositor will deposit funds with the Trustee.
- 2.4 With the funds so received from the Depositor, the Trustee without delay shall open accounts with MFIs in equal amounts of \$95,000 each.
- 2.5 Any funds not deposited at the close of business on the day of deposit with a MFI by the Trustee, shall be invested in a separate account in securities or instrument, backed by the full faith and credit of the United States only, and such account shall be maintained until the funds are withdrawn for investment in a MFI or returned to the Depositor. Any income earned on such separate account shall be electronically transferred to the Depositor immediately upon return of the funds to the Depositor. MFIs who fail to surrender and return the \$95,000 certificate of deposit within two (2) days to the Trustee in which they have an account, will be required to return principle and interest as determined by the Depositor.
- 2.6 Funds placed in a MFI by the Trustee pursuant to sections 2.2 through 2.4 shall be invested in 6-month time deposits which bear interest at the 6 month Treasury bill rate prevailing at the time of deposit. The Trustee shall assure that any deposit of such funds shall be in amounts which do not exceed the insurance limitations outlined in 12.CFR 330.10.
- 2.7 The Trustee shall provide written notification to the MFIs of the issue date, maturity date, 6-month Treasury bill rate and amount of interest due at maturity within three (3) days after any investments purchased pursuant to this Trust.

- 2.8 The Depositor shall collect the interest accrued on deposits with the MFIs on the maturity date of the 6-month time deposits by electronically debiting assigned accounts of the MFIs through an Automated Clearing House (ACH) system.
- 2.9 The Trustee shall renew the maturing \$95,000 certificate of deposit with the MFI pursuant to sections 2.2 through 2.6, except for deposits which the Depositor wishes to withdraw pursuant to section 3.1 hereof.
- 2.10 The Trustee shall demand all funds then on deposit, including interest accrued until the date of transfer, from any MFI which loses or withdraws from FDIC coverage.
- 2.11 Should a MFI lose its minority status or upon notification from a MFI of withdrawal from the program, the Trustee shall immediately electronically transfer to the Depositor the principle and accrued interest from each account held by the MFI as such account matures. In the event the Depositor has instructed the Trustee to reinvest the principle in another MFI, only the accrued interest from the withdrawing MFI needs to be transferred to the Depositor.
- 2.12 In accordance with the Department of Treasury regulations (31 CFR 202), the Trustee agrees to pledge collateral for all Trust funds in excess of the \$250,000 FDIC insurance coverage for the period of time these funds are in the Trustee's possession.
- 2.13 The Trustee is under no duty to seek a greater return than prescribed in section 2.6 hereof and shall not be liable for any loss of funds other than that which occurs through the Trustees wrongful act or negligence.
- 2.14 The Trustee agrees to maintain records that, at a minimum, contain copies of the Declaration of Trust and the Memoranda of Instructions that identify the MFIs with which deposits are made. The Trustee shall provide a report at least semi-annually to the Depositor regarding the Trust. Such reports shall contain a complete listing of amounts deposited with each MFI, as well as, a statement of all receipts and disbursements during the period and must coincide with the Depositor's records and be filed promptly after the maturation of the deposit.

The Trustee shall furnish the Depositor with additional information with regard to the Trust as the Depositor may from time to time request. The Depositor shall, for the purpose of securing such information, have access to and the right to examine relevant books, documents, papers, or records of the Trustee from establishment of the Trust to a period of six (6) years after the account is closed.

- 2.15 The Trustee and MFIs agree to follow additional written instructions issued by the Depositor in administering this Trust.
- 2.16 No bond or other security shall be required of the Trustee, other than that set forth in applicable Federal or State laws or regulations which govern its activities and that are discussed in section 2.12.

### ARTICLE III Withdrawal of Participation

- 3.1 The Depositor may withdraw all or part of its deposit, at any maturity date, plus earned interest through the date of withdrawal by giving written notice to the Trustee at least thirty (30) days prior to the maturity date of the deposit. However, in the events of extenuating circumstances, such as the loss of or withdrawal by a MFI from FDIC coverage, the insolvency or receivership of a participating MFI, or requirements of the Depositor, written notice may be given prior to maturity to close an account with a MFI within a specified period of time which may be less than thirty (30) days. If such extenuating circumstances require the Depositor to withdraw funds prior to maturity, no penalty will be assessed by the affected MFI.
- 3.2 Upon receiving notice from the Depositor that all or part of its deposits is to be withdrawn, the Trustee shall immediately withdraw the requisite amount from the participating MFIs and shall electronically transfer the requisite amount to the Depositor, except as otherwise specified in Article V hereof.

## Article IV Renumeration of Trustee

Based on the Depositor's available fiscal year funding, the Trustee may or may not be compensated for services performed as mutually agreed to by the Trustee and the Depositor.

## Article V Termination of Trust

- 5.1 The Trustee or the Depositor may terminate the Trust hereby created by delivery of written notice of intent to do so to the Depositor or the Trustee, as appropriate, and all MFIs in which deposits are placed under this Trust at least three (3) months prior to the effective date of termination except that the Depositor may terminate the Trust sooner in the event an extenuating circumstances, as defined in section 3.1.
- 5.2 Prior to the effective date of termination of the Trust, the Depositor will instruct the Trustee on the disposition of the deposits and accrued interest. The Depositor may collect all amounts due directly from the MFIs via the ACH mechanism; may require the Trustee to collect and remit all sums to the Depositor or to a successor Trustee designated by the Depositor; or may require the rollover of the principle at maturity in the name of the successor Trustee with the Depositor collecting the interest through an ACH system. If the Trustee is instructed to collect the funds directly, upon receipt of the funds from the participating MFIs, the Trustee shall immediately electronically transfer the funds to the Depositor.
- 5.3 In the event of the insolvency or receivership of a participating MFI, or any event that affects the withdrawal of funds on deposit with a MFI, the Trustee shall continue to administer and collect funds on account with that MFI. Upon receipt of funds from the participating MFI, the Trustee shall immediately electronically transfer the funds to the Depositor.
- 5.4 This Trust is effective from the date of execution until terminated by the Depositor or Trustee.

Article VI  
Governing Laws

The validity of this Declaration of Trust and the construction of its provisions shall be governed by applicable Federal law.

NAME OF TRUSTEE

Attest: \_\_\_\_\_  
(Seal) Trust Officer

By \_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

U.S. DEPARTMENT OF ENERGY (Depositor)

Date \_\_\_\_\_

By \_\_\_\_\_  
(Title)